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SENATE

REPORT
No. 97-521

HOBOKEN PIER TERMINALS

AUGUST 11 (legislative day, JULY 12), 1982.—Ordered to be printed

Mr. ROTH (for Mr. STEVENS), from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany H.R. 3620]

The Committee on Governmental Affairs, to which was referred the bill (H.R. 3620), to transfer certain federal property to the City of Hoboken, New Jersey, having considered the same, reports favorably thereon with amendments, and recommends that the bill as amended do pass.

The amendments are as follows:

On page 1, lines 4 and 5, strike out "transfer at a price to be negotiated and which may be less than fair market value" and insert "transfer for the fair market value as determined by the General Services Administration under the guidelines set forth in this Act, at a price to be negotiated,";

Section 2 of the bill shall read as follows:

> SEC. 2. In making its determination of fair market value, the General Services Administration shall recognize that the fair market value of the property is determined by the market in which it shall be sold, with the City of Hoboken being the only potential purchaser. The GSA shall make every effort to expedite the sale and transfer of the property to the City of Hoboken, recognizing the hardship which would result in any undue delay in lengthy negotiations. The GSA shall give full consideration to the right of the Federal Government to be compensated for the property while considering the City of Hoboken's ability to pay for the property. Furthermore, the GSA shall give consideration and recognition to whatever funds and costs the Federal Government has invested in the property. The GSA shall also give consideration to the fact that the City of Hoboken has been deprived of tax revenue from the property since its acquisition by the United

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States, in 1917, but has been required, despite its loss of tax revenue, to provide municipal services to the property;
On page 3, line 7, strike "SEC. 2", and insert "SEC. 3";

BACKGROUND

The property known as the Hoboken Pier Terminals was purchased by the War Department in 1917 from two German corporations, the North German Lloyd Dock Company and the Hamburg-American Line Terminal and Navigation Company. The country was then embroiled in the First World War, and the War Department considered the terminals essential for national security. The facility's location on the Eastern Seaboard and the fact that it could easily be adapted to transport military personnel and supplies to Europe made it highly desirable real estate. Title was acquired by proclamation of President Woodrow Wilson on June 28, 1918.

Before the onset of hostilities, the property had been a thriving commercial center for the trans-Atlantic transportation of passengers and freight, and an integral part of the economy of Hoboken. About 3,000 men worked on the piers at the time of its expropriation—the majority of whom lived and spent their wages in Hoboken. After the War, only 500 men were left working at the terminals. Before the Government took title, Hoboken received $300,000 yearly in tax revenues; these revenues ceased with the expropriation. While Hoboken suffered economically, the Federal Government profited by its acquisition. In fact, between the years 1921 and 1936, the Government received a net income of over $3 million from the property.

In 1930, Congress authorized the U.S. Shipping Board to sell the property "for use and operation as piers or terminals . . . giving due consideration to the interests of the United States and to the development and maintenance of an adequate American Merchant Marine,". Despite the Act, the Maritime Commission believed it necessary to retain jurisdiction.

The Commission believed that it could operate the facility to the best advantage of the Government in light of the property's continued significance to the Merchant Marine and the national defense. The Commission's desire to retain ownership and Hoboken's inability to purchase the property were complementary factors that led to the Act of June 21, 1938. The statute authorized the lease or sale of the property, specifically to the City of Hoboken.

It was not until 1952, however, that a tri-partite lease agreement between the Maritime Administration, the City of Hoboken, and the Port Authority of New York-New Jersey was effected. This agreement stipulated that the property was to be used solely for marine terminal purposes. The agreement also provided, inter alia, for a fifty-year lease with an option to renew under like terms; payment in advance of a dollar a year in rent by the City or the Port Authority; and the expenditure of at least $15 million for the rehabilitation, expansion, and improvement of the property by the Port Authority.

Under the supervision of Hoboken and the Port Authority, the facility was revitalized; and, until 1978, it was the site of break-bulk cargo shipping activity. The "container revolution", in conjunction

with the limited upland area of the Hoboken facility (the area needed to store containers), brought that activity to a halt.

Due to these changes and the consequent loss of revenues to the City, the three parties again entered into negotiations to determine ways in which the Hoboken Pier Terminals could once more be put to good use. Those efforts proved fruitless.

Some time later, the Maritime Administration attempted to transfer the real estate to the General Services Administration (GSA) for disposal according to the provisions of the Federal Property and Administrative Services Act of 1949. This is the statutory means whereby most Federal real property holdings that Federal agencies find are no longer necessary to their needs are reported to GSA for disposal. GSA reviewed the request and declined to begin disposal proceedings because of the maritime-use restrictions and the lease.

Early in 1981, in an attempt to reactivate the property, the lessees requested approval to use the property for non-maritime purposes. In response to this request, the Maritime Administration issued an opinion on March 4, 1981 that would have allowed part of the property to be used for non-marine purposes. However, it was stipulated that, if an alternate use would change the character or otherwise interfere with use of the property as a marine terminal, it would violate the statutes of 1930 and 1938. These restrictions were thought to severely limit development of the property, and the proposal was rejected.

As a result of these failed efforts to reach a workable solution, H.R. 3620 was introduced.

Discussion

This legislation puts to rest the question of what to do with the Hoboken Pier Terminals. For the past half-century, the Federal Government has owned the property; and, for a time, it was considered valuable real estate. Unfortunately, the statutorily-imposed maritime use restriction and technological changes in the maritime industry have caused the obsolescence of the terminal facility. Even the Maritime Administration, which once considered the Hoboken terminals vital to the Merchant Marine and the national defense, has altered its opinion of the property's significance. The City of Hoboken, on the other hand, would welcome the return of this waterfront property.

H.R. 3620, as introduced, provided for the transferral of the property gratuitously to the City of Hoboken. The statute as amended directs that the property should be transferred at fair market value as determined by the General Services Administration under the guidelines set forth in the statute, at a price to be negotiated.

While supporting the concept of a sale rather than a gift, the Department of Transportation recognized the extenuating circumstances surrounding 64 years of Federal ownership. The Department supported the idea of allowing the sale of the property to be negotiated for less than fair market value. In its report, the Department said, "The exceptional authority to sell at less than fair market value provides maximum discretion for the General Services Administration to consider the particular circumstances surrounding the Federal ownership of the property for over half a century."

One important factor which the General Services Administration may consider is the fact that the physical state of the property is poor.

It must again be noted that because of Federal restrictions the property has been idle and deteriorating since 1978. Recent fires have destroyed some of the structures. In order to prepare the property for development, a great deal of improvement will have to be made. The most immediate repairs are mandated by the City's participation in the U.S. Army Corps of Engineers/New Jersey Department of Environmental Protection's "Harbor Collection and Removal of Drift Program." Two of the piers will have to be repaired at an estimated cost of $400,000. In addition, it will cost the City considerable sums to clean up trash, debris, and remove other structures that are located on the property.

Finally, even if the property is sold, there is still the question of the sublease between the City and the Port Authority. The Port Authority has an $8 million una mortized investment in the property. The Authority expressed a willingness at the hearing to work with the City to explore ways to develop the property once the transfer is completed. However, they cannot merely walk away from their unrecouped investment. This means that the City will have to negotiate a settlement with the Port Authority in order to terminate the remaining obligations under the 1952 lease. This will cost the City money.

These are only some of the considerations that GSA should review in negotiating the sale. In addition, the Maritime Administration—in light of its wealth of information on the history of the Hoboken terminals under Government control—should fully cooperate with GSA in whatever way it can.

House Committee Action

On May 19, 1981, the Honorable Frank J. Guarini introduced H.R. 3620, a bill transferring certain Federal property to the City of Hoboken, New Jersey. The bill was referred to the Committee on Merchant Marine and Fisheries and subsequently to the Subcommittee on Merchant Marine for legislation action.

A hearing on H.R. 3620 was held before the House Subcommittee on September 15, 1981. All witnesses expressed support for the legislation. Some of the Members present asked why the Federal Government should not expect at least some remuneration from Hoboken for this property.

On October 28, 1981, the Department of Transportation submitted its report on the legislation. The Department advised that there was no need for the United States to retain the property, but it could not support H.R. 3620 as introduced. The Administration recommended that the property be sold. However, in light of the history of the property's use and its burden on the City of Hoboken, it proposed that the property may be sold to the City for less than fair market value.

Secondly, the Department recommended that the General Services Administration negotiate the sale with Hoboken instead of the Maritime Administration.

Finally, the Department proposed that Hoboken assume sole responsibility for the property and agree to indemnify and hold harmless the United States against any obligation concerning the property.

Mr. Snyder offered an amendment to H.R. 3620 which reflected the Administration's position. The amendment was agreed to by voice

vote. The bill, as amended, was reported out of Subcommittee on November 18, 1981.

The Full House Committee met to mark up the bill on December 7. The Chairman of the Subcommittee, Mario Biaggi, offered an amendment, which was adopted by voice vote. This amendment excluded several parcels of property, now occupied by other Federal agencies, from the property to be sold to Hoboken.

Senate Committee Action

On January 9, 1982, the bill was reported to the House. The bill passed the House on March 18, 1982 under suspension of the rules, and was sent to the Senate on March 22, 1982. The Subcommittee on Civil Service, Post Office and General Services referred the bill to the Full Committee on April 28, 1982. The Full Committee markup occurred on June 17, 1982, and the bill as amended was unanimously reported out.

Statement

The Committee believes that H.R. 3620 as amended provides for an equitable transfer of the Hoboken pier facilities from the Federal Government to the City of Hoboken. The property would be transferred at fair market value as determined by the General Services Administration. GSA is directed to recognize the fact that fair market value is determined by the market in which the property will be sold, and that the only potential purchaser is the City of Hoboken. GSA is also directed to expedite the transfer of the property. GSA must consider the right of the Federal Government to be compensated for any costs or funds invested in the property, and the City of Hoboken's ability to pay for the property. GSA also has to consider the fact that Hoboken has received no tax revenue from the property since 1917, but it has continued to provide municipal services to the property.

Section-by-Section Analysis

SECTION 1

Section 1 provides that the General Services Administration shall transfer all right, title and interest in real property described in schedule A appended to a proclamation of the President of the United States, dated December 3, 1918, from the United States to Hoboken, New Jersey. Certain specified areas of the real property are to be excluded. The transfer shall be for fair market value as determined by the General Services Administration, at a price to be negotiated under guidelines set forth in the Act. Concurrent with transfer of the title to Hoboken, the State of New Jersey agrees to assume sole responsibility for the property, and to indemnify and hold harmless the United States against any obligation, past, present or future, with respect to the property.

SECTION 2

In determining fair market value, GSA must recognize that fair market value is determined by the market in which the property is to

be sold; in this case, the City of Hoboken is the only potential purchaser.

GSA must make every effort to expedite the sale and transfer of the property to Hoboken.

GSA must consider the Federal Government's right to be compensated for the funds invested in the property, as well as the costs of upkeep. GSA must also consider Hoboken's ability to pay for the property, and the fact that it has not received tax revenue from the property since 1917, when it was acquired by the Federal Government. The City of Hoboken has, despite the loss of tax revenue, provided municipal services to the property.

SECTION 3

The Act of April 19, 1930 (46 Stat. 219), and the Act of June 21, 1938 (52 Stat. 833) are repealed.

Evaluation of Regulatory Impact

Paragraph 11(b)(1) of Rule XXVI requires each report accompanying a bill to evaluate "the regulatory impact which would be incurred in carrying out the bill."

H.R. 3620 does not authorize any additional regulations of activities in the private sector, impose any new record-keeping or reporting requirements on any segment of the public, or abolish any existing regulations. Regulations for internal agency guidance may be required but these should not affect the public in any way.

Estimated Cost of the Legislation

Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed the cost implications of S. 2625, as amended. The following is CBO's estimate of the potential costs of this legislation:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., June 29, 1982.

Hon. William V. Roth, Jr.,
Chairman, Committee on Government Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 3620, a bill transferring certain federal property to the city of Hoboken, New Jersey, as ordered reported by the Senate Committee on Government Affairs, June 17, 1982.

The bill would allow the federal government to transfer without warranty approximately 50.5 acres of property along the Hoboken, New Jersey, pierline. The Maritime Administration, which has administered the property since 1917, has determined that the property is surplus. Usually, surplus property of the federal government is disposed of by the General Services Administration (GSA). In this case, because of a lease encumbrance, GSA cannot dispose of the property. This bill would repeal existing law that conditions sale of the property and would allow the transfer.

There are no significant costs associated with enactment of this legislation, and there could be some receipts from the sale of the property, but no more than $1 to $2 million).

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RAYMOND C. SCHEPPACH
(for Alice M. Rivlin, Director).

ROLLCALL VOTES IN COMMITTEE

In compliance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the rollcall vote taken during committee consideration is as follows: 11 yeas: 0 nays.

NAYS	YEAS
Senator Danforth	
Senator Cohen	
Senator Durenberger	
Senator Mattingly	
Senator Rudman	
Senator Schmitt	
Senator Chiles	
Senator Glenn	
Senator Pryor	
Senator Levin	
Senator Roth	
Senator Stevens (proxy) [1]	
Senator Sasser (proxy) [1]	

[1] Committee rules provide that on final passage, proxies may be allowed solely for the purpose of recording a member's position on the pending question.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets).

THE ACT OF APRIL 19, 1930 (46 STAT. 219)

[That the United States Shipping Board is authorized for and on behalf of the United States to sell the right, title, and interest of the United States in the real property described in Schedule A appended to a proclamation of the President of the United States, dated December 3, 1918, which was taken over by the United States by a proclamation of the President of the United States dated June 28, 1918, pursuant to the authority vested in him by the Act entitled "An Act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1918, and prior fiscal years, on account of war expenses, and for other purposes," approved March 28, 1918. The property transferred to the Treasury Department by the

Second Deficiency Act, fiscal year 1929, shall not be sold under the provisions of this Act.

[There shall also be excluded a piece or parcel of land in such city, contiguous to the east line of the present post-office site as transferred under the Second Deficiency Act, 1929, fronting twenty five feet along the north line of Newark Street and extending at that width in a northerly direction one hundred and seventy-five feet; also a piece or parcel of land twenty-five feet wide on the northerly side of said post-office site and contiguous therein, as extended herein, running westerly along the south side of First Street extended, two hundred and twenty-five feet, more or less, to the easterly side of River Street.

[SEC. 2. Said property shall be sold, in whole or in part, at public competitive sale, for use and operation as piers or terminals on such terms and conditions as said United States Shipping Board may prescribe, giving due consideration to the interests of the United States and to the development and maintenance of an adequate American Merchant Marine, but in no case for less than 25 per centum of the purchase price in cash, and payment of the balance of the purchase price, with interest at 5 per centum per annum, shall not be deferred more than five years from date of sale. The right is expressly granted said United States Shipping Board to reject any or all bids for any reason it may deem sufficient. Said property shall be sold only to a citizen of the United States, within the meaning of section 2, Shipping Act, 1916, as amended by section 38, Merchant Marine Act, 1920.

[SEC. 3. The United States Shipping Board shall publish the terms of such sale, and the date and time, and the final date of filing bids, if by the acceptance of bids, at least once in each week during the four weeks preceding such sale, in the Jersey Observer, a daily newspaper printed and published in the city of Hoboken, New Jersey, in the Jersey Journal, a daily newspaper printed and published in the city of Jersey City, New Jersey, and in the Journal of Commerce, a daily newspaper printed and published in the city of New York, New York, and may publish such notice in such other newspapers or publications, or advertise said sale in such other manner as the United States Shipping Board deems most advisable as affording adequate notice of such sale.

[SEC. 4. All sums received as a result of the sale of such property shall be deposited in the construction loan fund created by section 11 of the Merchant Marine Act, 1920, as amended (U.S.C. supp. 3, title 46, sec. 870).

[SEC. 5. The United States Shipping Board, in making said sale and the terms and conditions thereof, shall keep in view the policy and primary purposes declared in section 1, Merchant Marine Act, 1920, and confirmed in section 1, Merchant Marine Act, 1928.]

THE ACT OF JUNE 21, 1938 (52 STAT. 833)

[That the United States Maritime Commission is authorized for and on behalf of the United States, (1) to sell to the city of Hoboken, New Jersey, the right, title, and interest of the United States in the whole or any part of such real property now under its juris-

diction or control, and described in schedule A appended to a proclamation of the President of the United States, dated December 3, 1918, which was taken over by the United States by a proclamation of the President of the United States, dated June 28, 1918, pursuant to the authority vested in him by the Act entitled "An Act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1918, and prior fiscal years, on account of war expenses and for other purposes," approved March 28, 1918, or (2) to lease to the said city of Hoboken the whole or any part of such aforementioned real property for any term up to fifty years, said sale or said lease to be on such terms and under such conditions as shall be mutually agreeable to the Maritime Commission and the said city of Hoboken: *Provided*, That any contract of lease executed between the Maritime Commission and the city of Hoboken under the provisions of this Act shall expressly authorize the Maritime Commission and the said city, at or before the expiration of the original contract of lease, to enter into a new contract of lease of the same property and for a like term of years.

[SEC. 2. In event that the Maritime Commission, in accordance with the provisions of this Act, shall convey to said city all or any of the real property herein described, or in event that any such lease as is herein provided for, shall be executed between the Maritime Commission and the city of Hoboken, the Commission shall transfer any leases in existence upon the property so sold or leased at the time of said sale or lease, to the city of Hoboken and assign to it any future benefit to be received thereunder.

[SEC. 3. In event the property herein described shall be sold to the city of Hoboken, the deed executed by the Commission shall contain express covenants that (1) in event of a national emergency the property so conveyed, with all improvements placed thereon, may be taken upon order of the President of the United States for the use of the War Department during the period of such emergency, but no longer: *Provided*, That just compensation shall be paid for any improvements placed thereon or made thereto, and (2) the said city shall not resell the property conveyed thereunder.]

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